IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

WEDNESDAY, THE 14TH NOVEMBER, 2007 / 23RD KARTHIKA, 1929

WP(Crl.).No. 249 of 2007(S)

PETITIONER:

SANTHOSH ANTONY, AGED 35 YEARS,
S/O.ANTONY, MUNDACKAL HOUSE, KARINGAZHA,
CHELAD P.O.

BY ADV. SRI.E.D.GEORGE

RESPONDENTS:
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1. SHERLY.S.A., W/O.JOSE, 14/98,
KOTTARAM HOUSE, MARADU P.O.,
ERNAKULAM-682 304.

2. JOSE, 14/98, KOTTARAM HOUSE,
MARADU P.O., ERNAKULAM-682 304.

3. SAJUMON.M.C., S/O.CHERIAN,
RUKKIA APARTMENT, ST.BENEDICT ROAD,
ERNAKULAM.

4. COMMISSIONER OF POLICE, ERNAKULAM.

R4 BY GOVERNMENT PLEADER SRI.C.M.KAMMAPPU.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & V.K.MOHANAN, JJ.

W.P(Crl).No. 249 of 2007 - S

Dated this the 14th day of November, 2007

J U D G M E N T

Raman,J:

The petitioner seeks for a direction to produce the body of Sri.Baby Srambickal from the alleged custody of respondents 1 to 3. The alleged detenu is stated to be the son of the paternal aunt of the petitioner. She is 80 years old. The first respondent is the sister of the detenu, second respondent is the husband of the first respondent. The third respondent is the close friend of the detenu. It is alleged that in connection with the business run by a private limited company formed by the detenu along with respondents 1 to 3, a dispute arose and some criminal cases are also pending. The petitioner is also arrayed as one of the accused in the said criminal case which is pending before the Chief Judicial Magistrate Court, Ernakulam. Third respondent is also an accused. According to the petitioner, after filing of this case, nothing is heard about the detenu. An enquiry was made

with respondents 1 to 3 by the petitioner. But, no satisfactory answer was given by them regarding the whereabouts of the alleged detenu. The petitioner, in such circumstances, apprehends that the alleged detenu is under the illegal custody of respondents 1 and 2 with the help of the third respondent. Though a complaint is made to the Police as evidenced by Ext.P1, no action is taken and hence this writ petition.

2. When the matter was taken up for consideration, we asked the Government Pleader to get instructions as to what steps the Police has taken on the complaint stated to have been made by the petitioner and a statement is filed on behalf of the Sub Inspector of Police, Central Police Station, Ernakulam. As per the statement filed, the petitioner is the accused in two crimes, Crime Nos.750/2000 as well as Crime No.902/2003 for various offences under the Indian Penal Code. Complaints were lodged by one Dr.Varghese

Mundakkal. The petitioner has been charge sheeted and the case is now pending before the Chief Judicial Magistrate's Court, Ernakulam. Based on the writ petition filed, the Head Constable was deputed to enquire about the whereabouts of Sri.Baby Srambikal and the Sub Inspector of Police also conducted a personal enquiry. It is reported that respondents 1 and 2 are not residing at the given address at Maradu. Subsequently, he has also made a personal enquiry with the third respondent and it is revealed that the alleged detenu is in Australia. The third respondent is stated to have told the Investigating Officer that he does not know about the alleged detention of Sri.Baby Srambikal.

3. In the circumstances, no effective orders could be passed in this writ petition as the alleged detenu is outside India. Hence, with leave and liberty to the petitioner to move the Government of India or to approach any other court of law where the alleged

detenu is presently residing for redressal of his grievances, the writ petition is closed.

P.R.RAMAN,
Judge

V.K.MOHANAN,
Judge

Mbs/

V.K.MOHANAN, J.

O.P.NO. OF 2001

J U D G M E N T

DATED: -0-2007